

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1447 of 1996

in

SPECIAL CIVIL APPLICATION No 2673 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE H.L.GOKHALE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

MALUJI KHENGARJI

Versus

STATE OF GUJARAT

Appearance:

MR MS RAO for Petitioner
MR. D.C.DAVE, for Respondent No. 1, 2

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE H.L.GOKHALE

Date of decision: 14/03/97

ORAL JUDGEMENT

Admitted. Mr.D.C.Dave appears and waives service

of notice of appeal. In the facts and circumstances of the case the matter is taken up for final hearing to day.

This appeal is filed against the order passed by the learned Single Judge dismissing Special Civil Application No.2673 of 1985, which was filed against the order passed by the Gujarat Revenue Tribunal on July 10, 1984, dismissing the restoration application No.TEN/BA/68/84 rejecting the application on the ground that the same was barred by limitation.

It appears that the proceedings have been initiated against the present appellant under the Gujarat Agricultural Lands Ceiling Act, 1960. A part of the land held by the appellant was declared as surplus. Further proceedings were initiated and the matter was pending before the Revenue Tribunal. When the matter was called before the Revenue Tribunal neither appellant nor his advocate was present and the matter was decided exparte. That was on December 20, 1983. It is the case of the appellant that he came to know about that fact on April 8, 1984 and hence he filed an application for restoration of the main matter on May 9, 1984. The said application was, however, rejected as the delay was not condoned and that order was also confirmed by the learned Single Judge.

Our attention was invited by the learned counsel for the appellant, Ms.Shah, submitting that the appellant came to know about the fact of order dt. December 20, 1983 being passed on 8th April 1984 and immediately restoration application was filed. She also pointed out that an application for condonation for delay was made and the Medical Certificate was also submitted. The Medical certificate shows that the appellant was taking medical treatment of the Doctor concerned between 15th December 1983 to March 30, 1984. He was an outdoor patient. Though it cannot be said to be of serious nature, only with a view to extend one more opportunity on merits, and in the facts and circumstances of the case, in our opinion ends of justice would be met if the Letters Patent Appeal is allowed, quashing and setting aside the order passed by the learned Single Judge as well as Gujarat Revenue Tribunal and directing the Gujarat Revenue Tribunal to hear application on merits and decide the same in accordance with law. Since the matter is very old, the Tribunal is directed to dispose of the same as expeditiously as possible and preferably before July 31, 1997.

Ms.Shah, learned counsel for the appellant states

that the appellant will not ask for any adjournment and will proceed with the matter.

We may say that we are not observing anything on merits and the Tribunal will decide the matter strictly on merits as expeditiously as possible preferably before July 31, 1997.

In view of the above, the Letters Patent Appeal is allowed, with no order as to costs.
